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09/780,036	02/09/2001	Ron Kalian	722-X01-004	8407

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ART UNIT	PAPER NUMBER
2661	8

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-6_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-6_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☒ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in United Kingdom on 2/11/2000. It is noted, however, that applicant has not filed a certified copy of the **0003054.4** application as required by 35 U.S.C. 119(b).

Drawings

2. The drawing, FIG. 1, is objected to because it fails to show a brief text labels for all numeric labels as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "determining the average travel time", "average travel time", "a constant time" (claim 1, lines 7-10), and "determining the minimum travel time", "minimum travel time", "a constant time" (claim 2, lines 7-10) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered

and appropriate changes made to the brief description of the several views of the drawings

for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet"

in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing

figures. If the changes are not accepted by the examiner, the applicant will be notified and

informed of any required corrective action in the next Office action. The objection to the

drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: the **titles** or the headings

for the background of the invention (See MPEP § 608.01(c)), Brief Summary of the

Invention (See MPEP § 608.01(d)), Brief Description of the Several Views of the Drawing(s)

(See MPEP § 608.01(f)), and Detailed Description of the Invention (See MPEP § 608.01(g))

are missing.

Appropriate correction is required.

Claim Rejections - 35 USC § 112- First Paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making
and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
contemplated by the inventor of carrying out his invention.

5. Claims 1 and 2 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with

the enablement requirement. The claim(s) contains subject matter which was not described

in the specification in such a way as to enable one skilled in the art to which it pertains, or

with which it is most nearly connected, to make and/or use the invention.

Claim 1 recites, "…**a method of synchronizing** the replay of audio data sent as data packet

in a network of computers…" in lines 1-2, and " …**the delay being adapted such that it**

corresponds to a time equal to said average travel time plus a constant time…" in line 8-

10.

    1) Note that the method is solely based upon the synchronizing data transmission. The

       method steps further disclose determining the average travel time and providing the

       delay. However, the steps does not state how one would synchronize by utilizing the

       delay, average time interval, and the constant time. The specification and the

       drawings fail to disclose how or what steps are being taken when determining average

       travel time, which is the essential part of the claimed invention.

    2) Moreover, the applicant is simply claiming determining the delay by utilizing a

       formula (i.e. delay time = average travel time + constant time), and does not describe

       any method of synchronizing utilizing average travel time and the constant Moreover,

       neither the speciation nor the drawing describe that "…it (*i.e. delay*) corresponds to a

       time equal to said average travel time plus a constant time". Particularly, "a constant

       time" and what is considered constant time, and how is constant time determine are

       not defined anywhere in the specification.

3) The abstract, however, discloses " ... **the delay being adapted such that it corresponds to a predetermined time equal to the average travel time (or minimum travel time) plus a variable time...**" The claim limitation discloses "**...the delay being adapted such that it corresponds to a time equal to said average travel time plus a constant time**" It is well known in the art that the constant time and variable time are two <u>opposite</u> limitations. Calculating delay by utilizing a constant time verses variable time produces two different results. Thus, it is clear that the specification fails to support the claimed inventions.

Claim 2 recites, "... **a method of synchronizing** the replay of audio data sent as data packet in a network of computers..." in lines 1-2, and " ...**the delay being adapted such that it corresponds to a time equal to said minimum travel time plus a constant time**..." in line 8-10.

1) Note that the method is solely based upon the synchronizing data transmission. The method steps further disclose determining the minimum travel time and providing the delay. However, the steps does not state <u>how</u> one would synchronize by utilizing the delay, minimum travel time, and the constant time. The specification and the drawings fail to disclose how or what steps are being taken when determining minimum travel time, which is the essential part of the claimed invention.

2) Moreover, the applicant is simply claiming determining the delay by utilizing a formula (i.e. delay time = minimum travel time + constant time), and does not describe any method of synchronizing utilizing minimum travel time and the constant

Moreover, neither the speciation nor the drawing describe that "...it (*i.e.* ***delay***) corresponds to a time equal to said minimum travel time plus a constant time". Particularly, "a constant time" and what is considered constant time, and how is constant time determine are not defined anywhere in the specification.

3) The abstract, however, discloses " ... **the delay being adapted such that it corresponds to a predetermined time equal to the average travel time (or minimum travel time) plus a variable time...**" The claim limitation discloses "**...the delay being adapted such that it corresponds to a time equal to said minimum travel time plus a constant time**" It is well known in the art that the constant time and variable time are two <u>opposite</u> limitations. Calculating delay by utilizing a constant time verses variable time produces two different results. Thus, it is clear that the specification fails to support the claimed inventions.

Claims 3-6 are also rejected for the same reason as above since they are depended upon claims 1 and 3.

Claim Rejections - 35 USC § 112- Second Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites, "…**a method of synchronizing** the replay of audio data sent as data packet

in a network of computers…" in lines 1-2, and " …<u>the delay being adapted</u> **such that it**

corresponds to a time equal to said average travel time plus <u>a constant time</u>…" in line 8-

10.

Note that the method is solely based upon the synchronizing data transmission. The

method steps further disclose determining the average travel time and providing the delay.

Thus, it is **unclear**

1) how one would synchronize by utilizing the delay, average time interval, and constant

   time?

2) what is the method of synchronizing relates to the delay, average time interval, and

   constant time?

3) how do the delay, average time interval, and constant time leads to synchronizing?

4) what is being synchronize- source station, destination station?

5) What does a delay formula (i.e. delay time = average travel time + constant time)

   leads to synchronizing?

Claim limitation also recites, "providing a delay….the delay being adapted…" It is

unclear how the delay is being adapted to provide synchronization with respect to delay time,

which is equal to **said average travel time plus** <u>a constant time</u>. In particular, it is unclear

6) what parameter of delay provided, and what is adapted with regards to average travel

   time and a constant time?

7) How does delay is determined with respects to average travel time and a constant

   time: exponential, curve fitting, or etc.

Claim limitation also recites, "a constant time.." It is unclear what is the constant time, how does a constant time is computed, and what is its relation to synchronizing. The abstract clearly discloses the variable time. Thus, it is unclear whether the delay time is based on constant time or variable time.

Claim 2 is also rejected for the same reason as stated above.

Claim 1 recites, "... **substantially** random distribution..." in line 6, which is a relative term, which renders the claim indefinite. The term " **substantially** " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In particular, it is unclear what consists **substantially** or what is considered **substantially random distribution.**

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zarros (U.S. 5,682,384) in view of Teng (U.S. 5,930,473).

Regarding claim 1, Zarros'384 discloses a method of synchronizing the replay of

audio data sent as data packets in a network of computers (see col. 19, lines 46; a computer

network), the audio data being sent from a source station (see FIG. 2, Sender sending voice

(or video) packets; see col. 2, lines 47-48) to a destination station (see FIG. 2, receiver)

within earshot of one another, each data packet setting out from the source station to

respective destination station at substantially the same time (see col. 2, lines 40-54; note that

the since the packet is either voice or video packet, it is a real-time packet and must

sends to the receiver at the considerably/substantially at the same time), each packet

taking a travel time to reach its destination station (see FIG. 1 and see col. 5, lines 1-5; note

that time period of the packet is generated at the sender and attached to packet in form

of sequence number), the travel times having a substantially random distribution over a

range of times (see FIG. 1, a sequence is number is randomly nominal distributed over time,

(i.e. sequence number 2-6 and 8-10), the method including

determining the average travel time (t_{refn}) of a packet (see col. 19, lines 53-57; see

col. 61-67; note that a reference time of a packet from source/sender is

determined/estimated), and

providing a delay (see col. 19, lines 53-54; a zeta time, t_{zn}) between the time a given

packet is sent and its replay (see col. 19, lines 53-54; a zeta time between sender and

receiver), the delay being adapted such that it corresponds to a time (see col. 19, lines 53-54;

a zeta time, t_{zn}) equal to said average travel time (t_{refn}) plus a constant time (time X which

is real number constant; $t_{zn} = t_{refn} + X$; see col. 19, lines 51-58).

Zarros'384 does not explicitly disclose the audio data being sent from a source station **(see Teng'473 FIG. 1, Video Server 12) to a plurality of destination stations (see Teng'473 FIG. 1, clients 14-1 to 14-5; see Teng'473 col. 5, lines 35 to col. 6, lines 21; note that server broadcasts the video data packets to clients 14)**.

However, the above-mentioned claimed limitations are taught by Teng'473. In view of this, having the system of Zarros'384 and then given the teaching of Teng'473, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Teng'473, for the purpose of providing the a video server re-broadcasting and integrating the video data packets to the clients, as taught by Teng'473, since Teng'473 states the advantages/benefits at col. 3, lines 5-65 that it would support a wide variety of live full motion video application as well as integrating live video distribution. The motivation being that by providing a video server controlling the broadcasting, it can prevent the overload in the network since the server controls all transmission and request.

Regarding claim 2, Zarros'384 discloses a method of synchronizing the replay of audio data sent as data packets in a network of computers **(see col. 19, lines 46; a computer network)**, the audio data being sent from a source station **(see FIG. 2, Sender sending voice (or video) packets; see col. 2, lines 47-48)** to a destination station **(see FIG. 2, receiver)** within earshot of one another, each data packet setting out from the source station to respective destination station at substantially the same time **(see col. 2, lines 40-54; note that the since the packet is either voice or video packet, it is a real-time packet and must sends to the receiver at the considerably/substantially at the same time)**, each packet

taking a travel time to reach its destination station (**see FIG. 1 and see col. 5, lines 1-5; note**

that time period of the packet is generated at the sender and attached to packet in form

of sequence number), the travel times having a distribution over a range of times (**see FIG.**

1, a sequence is number is randomly nominal distributed over time, (i.e. sequence

number 2-6 and 8-10), the method including

determining the minimum travel time (t_{refn}) of a packet (**see col. 19, lines 53-67; see**

col. 61-67; note that a reference time of a packet from source/sender is

determined/estimated, and the reference time set to minimum), and

providing a delay (**see col. 19, lines 53-54; a zeta time, t_{zn}**) between the time a given

packet is sent and its replay (**see col. 19, lines 53-54; a zeta time between sender and**

receiver), the delay being adapted such that it corresponds to a time (**see col. 19, lines 53-54;**

a zeta time, t_{zn}) equal to said minimum travel time (t_{refn}) plus a constant time (**time X which**

is real number constant; $t_{zn} = t_{refn} + X$; see col. 19, lines 51-58; see col. 3, lines 22-26).

Zarros'384 does not explicitly disclose the audio data being sent from a source station

(**see Teng'473 FIG. 1, Video Server 12) to a plurality of destination stations (see**

Teng'473 FIG. 1, clients 14-1 to 14-5; see Teng'473 col. 5, lines 35 to col. 6, lines 21; note

that server broadcasts the video data packets to clients 14).

However, the above-mentioned claimed limitations are taught by Teng'473. In view

of this, having the system of Zarros'384 and then given the teaching of Teng'473, it would

have been obvious to one having ordinary skill in the art at the time the invention was made

to modify the system of Teng'473, for the purpose of providing the a video server re-

broadcasting and integrating the video data packets to the clients, as taught by Teng'473,

since Teng'473 states the advantages/benefits at col. 3, lines 5-65 that it would support a wide variety of live full motion video application as well as integrating live video distribution. The motivation being that by providing a video server controlling the broadcasting, it can prevent the overload in the network since the server controls all transmission and request.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ian N Moore whose telephone number is 703-605-1531. The

examiner can normally be reached on M-F: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ken Vanderpuye can be reached on 703-308-7828. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

INM
7/21/04

KENNETH VANDERPUYE
PRIMARY EXAMINER